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Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

THE GOLDBERG FAMILY INVESTMENT  
CLUB, a Florida General Partnership,

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04888 (SMB)

MIRIAM GOLDBERG, and  
HARVEY GOLDBERG,  
Defendants.

**TRUSTEE'S REQUEST TO ENTER DEFAULT**

To: CLERK OF THE COURT  
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against defendants The Goldberg Family Investment Club, Miriam Goldberg and Harvey Goldberg, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

**WHEREFORE**, the Trustee respectfully requests that this Court grant the Trustee's Motion in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York  
July 2, 2014

Respectfully submitted,

Of Counsel:

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*/s/ Nicholas J. Cremona*

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MIRIAM GOLDBERG, and

HARVEY GOLDBERG

Defendants.

**AFFIDAVIT SUPPORTING ENTRY OF DEFAULT**

STATE OF COLORADO     )  
  ) ss:  
COUNTY OF DENVER     )

Paul S. Enockson, being duly sworn, hereby attests as follows:

1. I was admitted pro hac vice into this Court and am a partner at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard ("Trustee"), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA") and the estate of Bernard L. Madoff, individually.

2. On December 2, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the "Complaint") against The Goldberg Family Investment Club, Miriam Goldberg, Harvey Goldberg, Alice Goldberg, Cheryl Schmidt, Rachel Schmidt, Myriam Goldberg, Mitchell Goldberg, Jessica Goldberg, Sara Goldberg, Ava Goldberg, Nechama Goldberg, Gladys Cohen and Morton Cohen ("Defendants"). (Dkt. No. 1.) The Complaint asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of SIPA, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of Defendants. (*Id.*)

3. On February 17, 2011, the Clerk of this Court issued a summons upon Defendants. (Dkt. No. 3.)

4. On February 18, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon The Goldberg Family Investment Club, Miriam Goldberg, and Harvey Goldberg ("Defaulting Defendants"). (*See* Dkt. Nos. 4.) An Affidavit of Service evidencing proper and timely service was filed with the Court. (*See* Ex. A, Affidavit of Service; Dkt. No. 4.)

5. On March 18, 2011, the Clerk of the Court issued a second summons upon Defendant Rachel Schmidt. (Dkt. No. 5.)

6. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions And (2) Amending The February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, the time by which Defaulting Defendants may answer or otherwise move with respect to the Complaint expired on May 17, 2011. (*See* Dkt. No. 5.)

7. Despite being duly served with the Summons and Complaint, Defaulting Defendants did not file an answer, move, or otherwise respond to the Complaint on or before May 17, 2011.

8. The Defaulting Defendants are the only remaining defendants in this case. All other defendants have been dismissed. (*See* Dkt. Nos. 7, 12.)


9. Defaulting Defendant The Goldberg Family Investment Club is a business entity and therefore is neither an infant nor incompetent.

10. Because Defaulting Defendant The Goldberg Family Investment Club is a business entity, the protections afforded under the Servicemember's Civil Relief Act of 2003 should not apply to The Goldberg Family Investment Club.

11. Upon information and belief, Defaulting Defendants Miriam Goldberg and Harvey Goldberg are neither infants nor incompetents.

12. On May 27, 2014, I performed a search on the Department of Defense Manpower Data Center (DMDC). Upon searching the information data banks of DMDC, the DMDC does not possess any information indicating that Miriam Goldberg or Harvey Goldberg are currently on active duty as to all branches of the Military.

13. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

  
/s/ Paul S. Enockson  
Paul S. Enockson

Sworn to before me this  
2 day of June, 2014

  
\_\_\_\_\_  
Notary Public



My Commission Expires 06/28/2016